

CALIFORNIA STATE ATHLETIC COMMISSION

Initial Statement of Reasons

Subject Matter of Proposed Regulations: Various Regulatory Changes

Section Affected: Adopt Section 227

Specific Purpose of the Adoption:

Existing regulation does not include any procedures for arbitration of a contract dispute between licensees of the Commission. This proposal would set out such procedures. The purpose is to create a simple and timely process as this affects licensees' livelihoods.

Factual Basis:

The Commission needs to have available to it, all of the information described in Subsection (a) to initiate arbitration of a contract.

Subsection (b) sets short timeframes for serving the request and obtaining a response so as to expedite the process.

Subsection (c) designates the Executive Officer or that person's designee as arbitrator. The Executive Officer, or his designee, has institutional knowledge of the day to day operations and would be the most knowledgeable person to preside.

Subsection (d) sets short timeframes for the exchange of information, between parties, that will be presented during the hearing in order to ensure that all relevant information is available in advance of the hearing and to ensure an expeditious and efficient resolution of the matter.

Subsection (e) limits the length of the hearing based on previous hearings of a similar nature. A key item taken into consideration when determining the length of time for hearings includes how much time was previously allotted under similar circumstances. Additionally, subsection (e) entails what each party can expect would be a reasonable amount of time to present the factual basis of their portion of the dispute. The timeframes described in this subsection are consistent with past experience as most arbitrations do not exceed three hours in length.

Subsection (f) clarifies that the burden of proof in an arbitration hearing is the same as for other civil matters.

Subsection (g) sets a relatively short timeframe for the arbitrator to consider all submitted material from both parties and to prepare and serve a written decision on the parties.

Subsection (h) limits to two, the number of times a requestor can fail, with good cause, to appear at a noticed hearing. If a requestor does not show up two times, he or she is indicating a lack of interest in proceeding upon the request. Civil courts also permit dismissal of actions under specified circumstances.

Underlying Data:

None

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to arbitration between individual licensees of the Commission.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Amend Section 281

Specific Purpose of the Amendment:

Existing regulation does not include any specific indicators that the Commission uses to evaluate the physical condition of a boxer. Issues continue to develop at Commission regulated weigh-ins revolving around the athlete's suitability to compete that could have been avoided if the informal criteria currently considered determines the physical and mental qualifications necessary to engage successfully and safely in combative sports. This proposal would codify the various indicators appropriate to be used in evaluating an athlete's suitability for licensure.

Factual Basis:

While there are no restrictions on age, an applicant must be reviewed based on physical and mental condition at the time of application or review. These guidelines give the Commission clear direction for decision making when examining an applicant's ability or potential ability to perform safely and competitively in a combative sport.

The language articulates health and safety concerns or 'red flags' for the Commission and directs them to investigate these when determining the suitability of an applicant or

licensee while at the same time providing stakeholders with a clear concept of how the Commission makes decisions in these cases.

In combative sports, the number of 'hard fights', knockouts, suspensions, whether or not a person has all of their limbs intact (or can defend themselves with limited use of all limbs), etc., are critical health and safety factors that indicate where the athlete is at that point in their career and if they are or are not suitable for licensing.

The latter factor, loss of all or part of a limb, could affect an athlete's balance and ability to evade punches/throws etc. It may affect the athlete's ability to properly defend against blows or avoid takedowns and thereby avoid injuries. It may affect the future health of an athlete if s/he incurs greater punishment due to loss of all or part of a limb.

When a borderline or high-risk athlete is identified through this process, the Commission after consultation with Commission approved physicians and other subject matter experts, may require the athlete to undergo additional medical testing and or skills evaluation for obvious health and safety reasons to determine their suitability to compete.

All of the factors mentioned above are significant because an athlete's mentality is that he or she is born to fight regardless of the consequences to their own personal health and safety. It is the experience of the Commission's staff that has recognized that more often than not, an athlete needs to be protected from him or herself in order to enjoy a productive and healthy life with their families and friends after their career in combative sports has concluded. The primary argument posed by an athlete when the Commission informs them of additional medical testing is "where does it say it in the rules?" This proposal would answer that question while continuing the Commission's mission of health and safety.

Underlying Data:

None

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to establishing criteria to evaluate the physical condition of an athlete.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Amend Section 303

Specific Purpose of the Amendment:

Existing regulation is not specific in regard to drug testing requirements for licensees or the results of a positive drug test. This proposed change codifies a method of enforcing Section 303's prohibitions through urine drug testing and clarifying the effect of a positive drug test. The proposal also codifies a list of prohibited substances that would be conclusive evidence of a violation of Section 303.

Factual Basis:

Nearly 500 drug tests have been performed in the State of California in the past nine months and approximately 10% of the license base tested positive for a prohibited substance. These numbers mirror the previous year's statistics which demonstrate that clarification of Section 303 is needed as licensees have been disregarding the seriousness of a violation under this section for two consecutive calendar years. The most cost effective method of ensuring compliance with Section 303 (a) is to require urine drug testing of applicants and contestants. This will level the playing field and provide greater protection for the athletes against other chemically enhanced competitors. For example, a competitor who has ingested dosages of anabolic agents to increase strength would have an unfair advantage against a "clean" competitor. Another example would be an athlete who has ingested dosages of PCP to deaden the effects of their opponent's blows thus creating a "superhuman" response to blows to the body or head that would normally render a competitor incapacitated if they fought "clean." The drugs proposed for inclusion in this section are those covered by the World Anti-Doping Agency, a foremost authority on the topic of athlete drug testing.

Underlying Data:

The World Anti-Doping Code, World Anti-Doping Agency's 2008 Prohibited List, Section 303 Violation Listing for March 1, 2006 through March 30, 2007, and Section 303 Violation Listing for March 31, 2007 through December 8, 2007.

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to drug testing violations occurring in combative sports. However, the Commission may be required to submit a revised contract proposal to the Department of General Services to revise our current drug testing methods and to acquire new drug testing supplies. The current cost utilizing our current methods for drug testing is \$99,500 over a period of twenty months. It is not anticipated there will be a financial increase in the cost of services but it may require a contractual change to establish services with another drug testing provider.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Adopt Section 314

Specific Purpose of the Adoption:

Existing regulation does not include any guidelines for the allowance of professional boxing matches to be held in a ring that meets the specifications of Section 523. This proposal would permit multi-sport bouts in a single event by modifying the ring requirements for boxing and kickboxing to permit the use of an alternate roped ring.

Factual Basis:

During live events attended in 2007, it was determined by the Commission after many requests by promoters that professional boxing should be allowed in a competition enclosure surrounded by five ropes as the five rope ring continues the Commission's mission of health and safety as a safe alternative to the traditional four rope ring enclosure.

Underlying Data:

None

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses in the State of California because it is in regard to competition enclosure requirements for combative sports. However, the Commission may experience an increase in the number of events as more and more licensed promoters attempt to hold "mixed" events or "mega events" showcasing multiple sports. It should also be noted the Commission may experience a decrease in the number of events as more and more licensed promoters hold "mixed" events because it will decrease their business expenses per event. In either case, the Commission may experience an increase or decrease of approximately \$5,000 per event from revenue generated from the event. Additionally, licensed officials in the State of California may experience an increase or decrease in the amount of wages earned per event. This could positively or negatively impact approximately 75 officials statewide. While the potential effects of this proposal are neither greatly positive nor adverse, they

are potential effects nonetheless. Due to stakeholder feedback obtained during the Commission's outreach activities, it is expected there will be a slight increase in activity.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Amend Section 323

Specific Purpose of the Amendment:

Existing regulation does not conform to national standards for hand bandaging. The proposed change conforms to the hand bandage requirements established by the Association of Boxing Commissions in their Regulatory Guidelines and Rules modified July 27, 2005 which established the current national standard.

Factual Basis:

Proper hand bandaging is an important factor in maintaining fighters' hands from being damaged which could prevent them from successfully engaging in their profession.

Underlying Data:

The Association of Boxing Commissions Regulatory Guidelines and Rules modified on July 27, 2005.

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to the bandaging of an athlete's hands that engages in combative sports.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out

the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Amend Section 368

Specific Purpose of the Amendment:

Existing regulation does not allow for final decisions in athletic contests to be changed after the victor has tested positive for a prohibited substance. This proposal change would permit a decision to be changed when the winner of a bout has tested positive for a prohibited substance immediately after the conclusion of the bout.

Factual Basis:

As a result of nearly two years of consistent drug testing in California, over 100 athletes have tested positive for anabolic agents or drugs of abuse. Based off of the statistics, the proposed amendment removes a victory from the athlete's record after testing positive for a prohibited substance.

Subsection (d) incorporates language referencing the change of decision to "no decision." A "no decision" contest is historically the result of a competition that was engaged in by two athletes that concluded in a questionable manner. For example, a professional boxing contest where a knockout was listed as the manner of victory but the actual blow was the result of a competitor who could not answer the bell due to an illegal punch to the back of his or her head could result in a ruling body or Commission overturning the victory and declaring "no decision." The Commission feels that a competitor engaged in competition who is under the influence of a prohibited substance is not engaging in fair competition and should not be rewarded with a victory after a positive drug test result is received.

Underlying Data:

Section 303 violation listing for the period covering March 31, 2007 through December 8, 2007 highlighting the competitors who tested positive for a prohibited substance and maintained a victory on their record after the fact.

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to the change of decision for an athletic contest where the victor tested positive for a prohibited substance.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Adopt Section 389

Specific Purpose of the Adoption:

Existing regulation does not include any procedures for appeal of a disciplinary action by the California State Athletic Commission. This proposal would set out such procedures. The purpose is to create an efficient and timely process as this affects the livelihoods of our licensees.

Factual Basis:

The Commission needs to have available to it all the information described in Subsection (a) to initiate the appeal of a disciplinary action and set the matter for hearing.

Subsection (b) sets a short timeframe for setting the matter for hearing in order to expedite the process.

Subsection (c) sets the allotted time for each party during the hearing. Based on previous experience in hearings of a similar nature, it was determined that the given timeframes allow ample opportunity for each party to present their case in a fair and equitable manner before the Commission.

Subsection (d) clarifies the burden of proof which is consistent with other non-healing arts boards.

Subsection (e) sets the timeframe to prepare the decision for dissemination to both parties. The timeframes are consistent with other actions of a similar nature.

Subsection (f) clarifies the matter will be dismissed if sufficient notice has been given and received by both parties and the party that initiated the appeal fails to appear at the hearing. If the requestor fails to appear at the appeal hearing, he or she is indicating a lack of interest in proceeding upon the request. Civil courts and administrative agencies also permit dismissal of actions under specified conditions.

Underlying Data:

None

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses because it is in regard to appeal hearings for individual licensees of the Commission.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

Section Affected: Amend Section 523

Specific Purpose of the Amendment:

Existing regulation does not include any guidelines for the allowance of professional kickboxing matches to be held in a ring that meets the specifications of Section 523. This proposal would permit multi-sport bouts in a single event by modifying the ring requirements for kickboxing to permit the use of an alternate roped ring.

Factual Basis:

During live events attended in 2007, it was determined by the Commission after many requests by promoters that professional kickboxing should be allowed in a competition enclosure surrounded by five ropes as the five rope ring continues the Commission's mission of health and safety as a safe alternative to the traditional four rope ring enclosure.

Underlying Data:

None

Business Impact:

The proposed regulation will not have a significant adverse impact on businesses in the State of California because it is in regard to competition enclosure requirements for combative sports. However, the Commission may experience an increase in the number of events as more and more licensed promoters attempt to hold "mixed" events or "mega events" showcasing multiple sports. It should also be noted the Commission may experience a decrease in the number of events as more and more licensed promoters hold "mixed" events because it will decrease their business expenses per event. In either case,

the Commission may experience an increase or decrease of approximately \$5,000 per event from revenue generated from the event. Additionally, licensed officials in the State of California may experience an increase or decrease in the amount of wages earned per event. This could positively or negatively impact approximately 75 officials statewide. While the potential effects of this proposal are neither greatly positive nor adverse, they are potential effects nonetheless. Due to stakeholder feedback obtained during the Commission's outreach activities, it is expected there will be a slight increase in activity.

Specific Technologies or Equipment:

The proposed regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.